



**TRANSPORT  
SCOTLAND**  
CÒMHDHAIL ALBA

# **Scotland's Pavement Parking Prohibitions**

## **Consultation on Enforcement Regulations for Local Authorities**

<b>Responding to this consultation</b> .....	<b>4</b>
About this consultation.....	4
How to respond.....	4
Deadline .....	5
Need assistance? .....	5
Next Steps .....	6
<b>Setting the scene</b> .....	<b>7</b>
Introduction .....	7
Purpose of this consultation.....	8
<b>Local Authority Enforcement Regulations</b> .....	<b>9</b>
Introduction .....	9
Current Powers.....	9
Enforcement Regulations: Proposed Provisions Under Section 59(1) of the Act... 11	
Notification of a penalty charge, content and method of notification .....	11
Timing and manner of payment of a penalty charge .....	12
Reviews and appeals (including grounds of review or appeal) in connection with the imposition of penalty charges.....	14
Enforcement Regulations: Proposed Provisions Under Section 66 of the Act .....	15
Keeping of accounts in connection with their functions .....	15
Purpose for which a surplus in such an account may be applied .....	16
Publication of a statement of account, and the manner in which it must be published.....	16
<b>Consultation Questions</b> .....	<b>17</b>

## MINISTERIAL FOREWORD FROM THE MINISTER FOR TRANSPORT, KEVIN STEWART MSP



The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

As part of this work, the Transport (Scotland) Act 2019 bans pavement parking, double parking and parking at dropped kerbs, and gives local authorities the relevant powers to enforce these new provisions. The Act also gives local authorities the power to exempt footways from the pavement parking prohibition in certain circumstances and in accordance with Ministerial Directions.

The new powers give local authorities the tools they need to be able to tackle the issues of inconsiderate and obstructive parking which, alongside a planned Government led media campaign, will highlight the problems that inconsiderate parking creates in our everyday lives. To support these provisions a suite of secondary legislation is necessary to bring new legislation into force and support its operation in practice.

Consultation is a key part of this work, allowing us to ensure that the Regulations that underpin these provisions are developed with consistency, transparency and scrutiny embedded within the process.

This consultation focuses on the proposed content of the Enforcement Regulations which will set out a detailed procedure for local authorities to follow when enforcing the new parking prohibitions.

We would strongly encourage everyone with an interest in the parking prohibitions to respond to this consultation and provide views on our proposals.

## Responding to this consultation

### About this consultation

Consultation is an essential part of the policy making process. It gives us the opportunity to seek your opinions. This consultation details issues under consideration and asks you questions about what we are proposing.

Responses will be analysed and used as part of the policy making process, along with a range of other available information and evidence. Responses to this consultation will help to inform the secondary legislation required to bring the parking provisions contained within the Transport (Scotland) Act 2019 into force and support its operation in practice.

### How to respond

To encourage wide participation, the Scottish Government has created a number of ways for you to engage with this consultation. You can respond online, by email or by post.

Details on how you can do this are highlighted in the following table.

**(Note** - The consultation will also be available in alternative formats on request, including Large Print, Braille and Easy Read.)

#### Table of response methods

<p>Online</p>	<p>You can use the response form on the Scottish Government’s consultation hub, Citizen Space at:</p> <p>Please complete the Respondent Information Form. (Annex A).</p>	<p>You can save and return to your response at any time while the consultation is open. Please ensure that your response is submitted before the consultation closes at midnight on 28 July 2023.</p> <p>You will automatically be emailed a copy of your response after you submit it. If you choose this method, you will be directed to complete the Respondent Information Form, which lets us know how you wish your response to be handled and whether you are</p>
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		happy for it to be made public.
Email	<p>Send us your response in an email to:</p> <p><a href="mailto:roadpolicy@transport.gov.scot">roadpolicy@transport.gov.scot</a></p> <p>Please include a completed Respondent Information Form (Annex A).</p>	
Post	<p>Send your response to:</p> <p>Enforcement Regulations Consultation  Road Policy Team  Transport Scotland  2nd Floor  George House  36 North Hanover Street  Glasgow  G1 2AD</p> <p>Please include a completed Respondent Information Form (Annex A).</p>	

## Deadline

The deadline for responses is 28 July 2023.

## Need assistance?

If you need support in answering this consultation or have a query about the consultation process you can send your query to: [roadpolicy@transport.gov.scot](mailto:roadpolicy@transport.gov.scot).

or in writing to :

Enforcement Regulations Consultation  
Road Policy Team  
Transport Scotland  
2nd Floor  
George House  
36 North Hanover Street  
Glasgow  
G1 2AD

## **Next Steps**

After the consultation has closed we will analyse all of the responses received and use your feedback to help develop the secondary legislation that will underpin the pavement parking prohibitions. After the consultation period closes we will publish responses at <https://consult.gov.scot>, where we have been given permission to do so.

The responses to the consultation and analysis will be published in due course.

## Setting the scene

### Introduction

The Scottish Government recognises the detrimental impact that obstructive and irresponsible parking can have on vulnerable groups, as well as emergency vehicles and other road users in general. In accordance with the powers devolved by section 40 of the Scotland Act 2016, the Scottish Ministers are now able to legislate on parking matters.

Since 2017, the Scottish Government has engaged with numerous stakeholders on the development of parking prohibitions, with the '*Improving Parking in Scotland*' consultation being published in 2017 ([https://consult.gov.scot/road-policy/improving-parking-in-scotland/user\\_uploads/695337\\_v8\\_20170605.pdf](https://consult.gov.scot/road-policy/improving-parking-in-scotland/user_uploads/695337_v8_20170605.pdf)). Feedback obtained from this consultation is available at the following link:

<https://www.transport.gov.scot/media/42239/improving-parking-in-scotland-may-2018.pdf>.

In 2022, the Scottish Government undertook a public consultation on the '*pre-implementation directions and regulations for local authorities*' ([Scotland's pavement parking prohibitions: pre-implementation directions and regulations for local authorities - Scottish Government - Citizen Space \(consult.gov.scot\)](https://consult.gov.scot/scotland-pavement-parking-prohibitions-pre-implementation-directions-and-regulations-for-local-authorities-scottish-government-citizen-space)). Feedback obtained from this consultation is available at the following link: [Transport \(Scotland\) Act 2019 – Section 52 Regulations and Ministerial Directions - Public Consultation Analysis Report | Transport Scotland](#).

The Transport (Scotland) Act 2019 ('the Act') introduces new national provisions, prohibiting pavement parking, double parking and parking at dropped kerbs. The Transport (Scotland) Act 2019 can be viewed at the following link:

<https://www.legislation.gov.uk/asp/2019/17/contents/enacted>.

A suite of secondary legislation is required for the pavement parking prohibition to work in practice and give local authorities the power to implement and enforce the prohibitions. The first set of Regulations relating to the Exemption Order Procedure was laid and came into force in December 2022. Ministerial Directions and Pre-Implementation Guidance were also issued to local authorities in December 2022 to accompany the Exemption Order Procedure Regulations. This consultation focuses on the proposed content of the Enforcement Regulations which will set out a procedure for local authorities to follow when enforcing the parking prohibitions.

## Purpose of this consultation

This consultation focuses on the process that will allow local authorities to enforce the new parking prohibitions, namely the National prohibitions on Pavement Parking, Dropped Kerb Parking & Double Parking. We will consider matters including, the process of issuing and paying a Penalty Charge Notice (PCN), reviews and appeals, the manner in which a PCN may be enforced and the steps that may be taken following cancellation of a PCN.

The consultation also seeks views on the amount that may be imposed as a penalty charge, and provision for discounts and charge certificates as well as the keeping and publication of accounts by local authorities.

We are keen to hear the opinions of stakeholders and interested parties on proposals for the procedures that local authorities will follow if they wish to issue a PCN for a contravention of the new prohibitions.

We hope that members of the public respond to this consultation where possible. We appreciate that some of the consultation questions are technical in nature (or apply to duties applicable to local authorities) but the enforcing of the parking provisions could have a direct impact on numerous individuals. As such, we would encourage everyone to respond to any or all of those areas where you feel you have a contribution to make.



# Local Authority Enforcement Regulations

## Introduction

Section 58 of the Transport (Scotland) Act 2019 (the 2019 Act) give the Scottish Ministers powers to impose penalty charges, set the amounts of those charges and provide for surcharges and discounts.

Section 59 of the 2019 Act allows for the Scottish Ministers to make provision in connection with the enforcement of the pavement parking prohibition, the double parking prohibition and the dropped footway parking prohibition. This allows the Scottish Ministers, following appropriate consultation, to make provision associated with a number of areas such as:

- the notification of a penalty charge;
- the timing and manor of the payment of a penalty charge;
- the grounds for review and appeal of a penalty charge that has been issued;
- and the steps to follow in the cancellation of a penalty charge.

## Current Powers

There are already a number of well established civil enforcement regimes in Scotland, such as those used for bus lane or decriminalised parking enforcement (DPE). The procedures we are proposing for the new parking prohibitions are based on these tried and tested methods that a number of local authorities already understand and operate. As of April 2023, 21 out of the 32 local authorities in Scotland currently have DPE powers.

In areas where local authorities have DPE powers, certain specified statutory traffic offences cease to be criminal offences enforced by the police, and instead become civil penalties enforced by the local authorities. DPE is a regime which enables a local authority to enforce its own parking policies, including the issuing of PCNs to motorists.

The example of DPE may be a helpful point of reference when considering how to develop the process for enforcing the parking prohibitions contained in the Transport (Scotland) Act 2019.

The following bullet points provide a short summary of how a local authority with DPE powers currently enforces a parking contravention:

- Notice of a contravention is issued in the form of a PCN to the motorist.
- If the charge is paid within 14 days of issue of the PCN, a discount of 50% is accepted in full and final payment. Liability for the payment of the penalty charge rests with the owner/registered keeper, who has an opportunity to make representations against the Notice to the local authority.

- If the representation is rejected, an appeal can be made to the First Tier Tribunal.

In addition to providing powers to local authorities to enforce the new parking prohibitions, the 2019 Act also provides powers to local authorities to engage with third parties to enforce the restrictions on their behalf. This means that local authorities who do not currently have DPE powers and therefore do not have a procedure in place to enforce parking contraventions, may wish to engage with others, such as (for example) local authorities who already have DPE powers in place or third party companies, to enforce the new parking prohibitions on their behalf.

Authorities operating DPE are required to produce annual accounts of their parking enforcement operations as a means of ensuring that any excess income is used in the prescribed way. The Scottish Ministers in turn publish an annual report which contains the information as reported by each of the local authorities with DPE powers.

## Enforcement Regulations: Proposed Provisions Under Section 59(1) of the Act

### Notification of a penalty charge, content and method of notification

#### Content of a PCN

A PCN being issued by local authorities for a pavement, double parking or a parking at dropped kerbs contravention will need to contain a number of key elements in order to correctly record the prohibition which has occurred.

#### Information to be collected when issuing a PCN

We suggest that the following details need to be recorded on the PCN:

- Vehicle registration number;
- Make of vehicle;
- Colour of vehicle;
- Detailed location of vehicle (e.g. street name, side of street, outside or opposite a particular address);
- Description of contravention and relevant statutory prohibition (e.g. in contravention of pavement parking, dropped kerb or double parking prohibition);
- Time and date of offence;
- Date of issue;
- PCN number;
- Parking attendant's number (if available).

#### Information for the motorist about what to do next

We suggest that the following information should also be included on the PCN so that motorists can clearly see how they can make payment or seek a review:

- Name of the local authority;
- Powers under which the PCN issued;
- Amount of the penalty charge;
- Detail and terms of reduction for prompt payment and any surcharge which may be applicable if not paid within timescale;
- Methods of payment (e.g. cash, cheque, credit card, etc.);
- Addresses (and telephone numbers) for payment.
- Period during which payment should be made (i.e. 28 days from date of issue)
- What happens if payment is not made within the time allowed

It is our intention that the content of a PCN for a contravention of the parking prohibitions will contain the information detailed above and we are seeking your views.

**Question 1:** Do you agree or disagree that the content of a PCN for a parking prohibition contravention should be as set out above?

## Method of notification of a PCN

Where it has been identified that a penalty charge is payable in respect of one of the new contraventions (pavement parking, dropped kerb parking or double parking) we are proposing that a civil enforcement officer may give notice of that charge by either fixing a PCN to the vehicle or by giving the PCN to the person they deem to be in charge of that vehicle.

In circumstances where the enforcement officer has written and signed the PCN but the car has moved before they were able to affix it or give it to the driver, we would propose that the local authority would have the ability to issue a PCN to the registered keeper of the vehicle by post.

**Question 2:** Do you agree or disagree with the proposed method of the notification of a PCN as set out above?

**Question 3:** Do you agree or disagree with the proposal for a local authority to be able to issue a PCN to the registered keeper of the vehicle by post, if they have not been able to affix it to a vehicle or give it to the driver?

## Removal or interference with a PCN

Section 59(1) and (4) of the Transport (Scotland) Act 2019 gives Scottish Ministers the powers to create criminal offences triable summarily and with a fine not exceeding level 5 on the standard scale. Given that we propose to issue PCNs via the placement of notices on vehicles, we are also proposing to make it an offence to remove or interfere with a notice once it is placed on the vehicle. This would help ensure as much as possible that only the owner or person in charge of the vehicle or the enforcement authority would be permitted to remove the PCN from the vehicle.

The proposed offence would carry a fine at level 2 on the standard fine scale which is currently set at £500.

**Question 4:** Do you agree or disagree with the proposal to make the removal or interference with a PCN, by anyone other than the vehicle owner/person in charge of the vehicle or the enforcement authority, a criminal offence?

**Question 5:** Do you agree with the level of fine which is being suggested?

## Timing and manner of payment of a penalty charge

### Time for paying a PCN

We are proposing that the same timeline already established for the payment of PCNs be replicated for the new prohibitions. This procedure suggested is laid out below:

### PCN Issued

Following the receipt of a PCN, the person liable would have 28 days to pay the penalty. If the penalty is paid within 14 days a 50% discount on the penalty level will be offered. If paid between the 15<sup>th</sup> and 28<sup>th</sup> day after the PCN was issued, full payment of the charge would be required.

### Notice to Owner/Registered Keeper

If the penalty remains unpaid or no appeal has been lodged after the 28<sup>th</sup> day, the local authority can issue a notice to the owner/registered keeper which is in effect a reminder to pay.

### Charge Certificate

If the penalty remains unpaid following the issuing of a notice to the owner, after a further period of 14 days, the local authority can issue a charge certificate which can contain an increase on the penalty of 50%

### Further recourse

If the penalty remains outstanding following the issue of a charge certificate, after a further period of 14 days, the local authority can take further action to enforce the debt.

**Question 6:** Do you agree or disagree with the proposed timing and level of discounts and surcharges of a PCN for a parking prohibition contravention as set out above?

### The amount of a PCN in relation to pavement parking, dropped kerb parking or double parking

There has been a recent change made to the maximum amounts that local authorities can charge for PCNs under their established DPE powers. A table of the charges that may be levied are shown below:

<b>Paid within 14 Days</b>	<b>Paid between 15 days and service of Notice to Owner</b>	<b>Paid between issue of Notice to Owner and service of charge certificate</b>	<b>Paid after service of charge certificate</b>
£50	£100	£100	£150

We have already established during prior consultation on PCN levels that the levels of fines for the new prohibitions should fall into the higher range as shown. We propose that these same fine levels be put in place in relation to the new parking prohibitions.

**Question 7:** Do you agree or disagree with the proposed level of penalty for a PCN issued for a pavement parking, dropped kerb or double parking prohibition contravention as set out above?

### **Responsibility for paying the PCN**

The responsibility for ensuring the payment of the PCN falls to the registered owner of the vehicle at the time of the offence. There are some established exemptions to this general rule however, such as in the instance of hire/lease vehicles.

If a vehicle receives a ticket whilst belonging to a vehicle hire/lease firm but is hired or leased from them under an agreement then that penalty charge notice will be passed onto the person who is hiring/leasing the car at the time of the offence.

We are proposing to replicate those established exemptions.

### **Vehicle Traders**

It is our proposal that if a vehicle was used or kept by a vehicle trader at the time of the offence but that vehicle trader is not the registered keeper, then they would be liable for paying the PCN.

**Question 8:** Do you agree or disagree that the registered owner of a vehicle should be responsible for the payment of a PCN for a parking prohibition contravention as set out above?

**Question 9:** Do you agree or disagree that if a vehicle trader commits a parking prohibition contravention, they should be responsible for the payment of a PCN even if they are not the registered keeper?

## **Reviews and appeals (including grounds of review or appeal) in connection with the imposition of penalty charges**

### **Requesting a review of a PCN by a local authority**

The recipient of a PCN may make written representations to the local authority against the decision to issue the PCN on specific grounds set out in regulations.

For the new parking prohibitions we are proposing that the following would be the specific grounds that would lead to the recipient of a PCN being able to ask the local authority for a review:

- That the alleged contravention didn't occur;

- That the recipient of the PCN was not the registered keeper of the vehicle at the time of the offence;
- That the vehicle is a hire/lease car and was the subject of a hire/lease agreement at the time of the offence;
- That the vehicle was parked on a footway that has an Exemption Order in place; and
- The penalty did occur but in light of extenuating circumstances, it would be unreasonable to impose a PCN.

Where a local authority accepts that at least one of the grounds for review noted above has been met, the local authority must cancel the PCN, and serve a notice on the recipient stating that the PCN has been cancelled.

Where it has not been satisfied that any of these grounds have been established, a notice of rejection must be served.

### **Requesting an appeal of a PCN to the First-tier Tribunal**

If the review is rejected by the relevant local authority, the recipient may request an appeal to be heard by the First-tier Tribunal, on the same grounds as those for a review. This appeal must be registered within 28 days of the notice of rejection.

**Question 10:** Do you agree or disagree that the process for appealing a PCN for a parking prohibition contravention as detailed above?

## **Enforcement Regulations: Proposed Provisions Under Section 66 of the Act**

Section 66 of the Transport (Scotland) Act 2019 allows Scottish Ministers to make provisions regarding the keeping of accounts, the purposes that any surplus may be used for and the publication of a statement of accounts. These are discussed in detail below:

### **Keeping of accounts in connection with their functions**

Currently, a local authority with DPE powers will keep a record of the number of PCNs they have issued in a financial year. In addition, under Section 55 of the Road Traffic Regulation Act 1984, local authorities are also required to keep an account of their income and expenditure in respect of designated parking places and additional parking charges, in the permitted and special parking areas set out in their DPE application to Scottish Ministers.

It is our intention that for the enforcement of the parking provisions in the Act, similarly to the process detailed above, local authorities will be required to keep a record of the number of PCNs issued for contraventions of the parking prohibitions.

In addition, it is proposed that local authorities also keep accounts of their income and expenditure in relation to the enforcement of the parking prohibitions.

### **Purpose for which a surplus in such an account may be applied**

Similarly to that of a DPE regime, we would expect that the ongoing enforcement of the parking prohibitions should insofar as possible be self-financing. In relation to a DPE regime, Section 55 of the Road Traffic Regulation Act 1984 requires that any surplus may only be used for certain transport-related purposes including; the provision and maintenance of off-street parking or, where the local authority consider that further provision of off-street parking is not necessary or desirable, the provision or operation of (or facilities for) public passenger transport services; or for road improvement projects in the local authority area.

Our proposal for the enforcement of the parking prohibitions, is that any surplus made is to be used on the same transport-related purposes detailed above.

### **Publication of a statement of account, and the manner in which it must be published**

Currently, local authorities with DPE powers send an annual report to Scottish Ministers detailing the number of PCNs issued for that financial year as well as their income and expenditure information for the same year. If a local authority has made a surplus, they are required to detail what the surplus will be used for in their local authority area.

Our proposal for the publication of local authority accounts in relation to the enforcement of the parking prohibitions would be to follow a similar method detailed above and have the information submitted to Scottish Ministers.

**Question 11:** Do you agree or disagree that local authorities should be required to keep accounts for a parking prohibition contravention, similar to the process, detailed above?

**Question 12:** Do you agree or disagree that any surplus made by local authorities for the enforcement of the parking prohibitions should be ring-fenced and used for certain transport-related purposes, similar to the process detailed above?

**Question 13:** Do you agree or disagree that local authorities should be required to submit their accounts in relation to the enforcement of the parking prohibitions, similar to the process, detailed above?



## Consultation Questions

Number	Consultation Question
1	Do you agree or disagree that the content of a PCN for a parking prohibition contravention should be as set out above?
2	Do you agree or disagree with the proposed method of the notification of a PCN as set out above?
3	Do you agree or disagree with the proposal for a local authority to be able to issue a PCN to the registered keeper of the vehicle by post, if they have not been able to affix it to a vehicle or give it to the driver?
4	Do you agree or disagree with the proposal to make the removal or interference with a PCN by anyone other than the vehicle owner/person in charge of the vehicle or the enforcement authority a criminal offence?
5	Do you agree with the level of fine which is being suggested?
6	Do you agree or disagree with the proposed timing and level of, discounts and surcharges of a PCN for a parking prohibition contravention as set out above?
7	Do you agree or disagree with the proposed level of penalty for a PCN issued for a pavement parking, dropped kerb or double parking prohibition contravention as set out above?
8	Do you agree or disagree that the registered owner of a vehicle should be responsible for the payment of a PCN for a parking prohibition contravention as set out above?
9	Do you agree or disagree that if a vehicle trader commits a parking prohibition contravention, they should be responsible for the payment of a PCN even if they are not the registered keeper?
10	Do you agree or disagree that the process for appealing a PCN for a parking prohibition contravention as detailed above?
11	Do you agree or disagree that local authorities should be required to keep accounts for a parking prohibition contravention, similar to the process, detailed above?
12	Do you agree or disagree that any surplus made by local authorities for the enforcement of the parking prohibitions should be ring-fenced and used for certain transport-related purposes, similar to the process detailed above?
13	Do you agree or disagree that local authorities should be required to submit their accounts in relation to the enforcement of the parking prohibitions, similar to the process, detailed above?

## Annex A – Consultation Responses

### Respondent Information Form

**Please note** this form must be completed and returned with your response.

Are you responding as an individual or on behalf of an organisation?

Individual

Organisation

Your full name or the organisation's name

Phone Number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response without name (Please note this does not apply to organisations)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss.



**TRANSPORT  
SCOTLAND**

CÒMHDHAIL ALBA

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